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BEFORE THE ARIZONA CORPORATION COMMISSION

2010 AUG 13 P 2: 16

62 CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

AUG 13 2010

DOCKETED BY

Complainant,

VS.

Respondent

**Docket No. T-03471A-10-0274**

REPLY TO ANSWER & MOTION TO  
DENY DISMISSAL

Complainant moves denial of Cox motion based on reply below to the reasons provided by Cox for dismissal.

## RESPONSE TO ANSWER

Complainant denies and asserts as follows:

1. Complainant denies Cox made every reasonable effort to supply a satisfactory level of service and has been in full compliance with its tariff and rules and regulations of the Commission. Complainant asserts Cox has not been reasonable in

supplying a satisfactory level of service and is not in compliance with its tariff and rules and regulations of the Commission.

2. Complainant denies Cox claim the formal complaint should be dismissed based on the history and chronology set forth in the ANSWER. Complainant asserts the following RESPONSE TO HISTORY supports denial of Cox claim the formal complaint should be dismissed.

#### **RESPONSE TO HISTORY**

Complainant RESPONSE TO HISTORY admits, asserts and denies as follows:

3. Complainant admits that Cox offered the first available on-site appointment for September 10, 2009 between 8:00 AM - 10:00 AM. Complainant asserts this was an unreasonable response because the non-working telephone line had been disconnected for over one week due to shoddy workmanship on behalf of Cox. Complainant asserts the contact with Cox help desk lasted between two and four hours and the ordeal and aggravation of a call of this length is evidence of a failure to supply a satisfactory level of service.

4. Complainant admits there was one other Cox working telephone line in the home and that no medical emergency existed. Complainant asserts Cox was advised the other line is in a private section of the home provided for a live-in nanny and is not accessible to the Complainant. Complainant asserts Cox was advised the line that was not working is the primary residential line of the Complainant and serves as connection for Complainant

home alarm system. Complainant asserts Cox was advised the home alarm system line was disconnected as the result of a previous service call (date not recorded) when the second Cox line was installed. Complainant asserts the shoddy workmanship that resulted in the Complainant primary telephone line being disconnected is evidence of a failure to supply a satisfactory level of service.

5. Complainant denies Cox fully restored Complainant second line on September 9, 2009. Complainant denies the Complainant other line remained fully operational during the "limited" time the second line was out of service. Complainant asserts Cox restored Complainant first line, and while the other line was operational, the first line was out for an "extended" period of time, over one week. Complainant asserts Cox disconnected Complainant second line during the September 9, 2009 service call in an attempt to restore the first line to service and the error was discovered by the Complainant not by Cox. Complainant asserts that had Complainant not insisted on checking the workmanship of Cox another service call would have been necessary. Complainant asserts the shoddy workmanship experienced by Cox is evidence of a failure to supply a satisfactory level of service.

6. Complainant admits Cox HISTORY in paragraph 6 of the Cox ANSWER.

7. Complainant denies Cox made numerous attempts to contact Complainant between September 15, 2009 and October 6, 2009. Complainant admits Complainant was dissatisfied with the

Cox attempt to address concerns and refused to accept apologies on behalf of Mr. Rizley. Complainant admits Complainant refused monetary service credits. Complainant denies Complainant demanded a personal written response from Mr. Rizley. Complainant admits Cox advised Complainant Cox would look into the matter without guarantee. Complainant asserts between September 15, 2009 and September 29, 2009 Cox made no attempt to contact Complainant. Complainant asserts it was only the efforts of Cox HR employee Ms. Ornoski on September 29, 2009 that caused Cox to initiate contact with the Complainant. Complainant asserts Complainant requested contact at his office telephone number and Cox instead attempted to reach Complainant on September 30, 2009 at Complainant home telephone number where there is no one available to answer the phone. Complainant asserts Cox left a non-working telephone number to contact Cox on Complainant home answering machine on September 30, 2009. Complainant asserts Cox contact on October 6 required a second intervention by Ms. Ornoski on October 1, 2009. Complainant asserts Cox indicated on Complainant business voicemail on October 1, 2009, after business hours, that Cox would call back again on October 2, 2009. Complainant asserts Cox did not finally make contact on October 6, 2009 until after Complainant left a second voicemail at Cox representative phone line. Complainant asserts Complainant requested only a letter signed by Mr. Rizley not a letter personally written by Mr. Rizley. Complainant asserts Cox leaving a non-working call back number on September 30, 2009, failing to call back on October 2, 2009 as

promised and requiring multiple third party intervention to make contact with Cox is evidence of a failure to supply a satisfactory level of service. Complainant asserts the inability of Cox to commit to a signed letter from Mr. Rizley is evidence of a leadership not committed to supply a satisfactory level of service.

8. Complainant admits Complainant wrote another letter on October 30, 2009 to Mr. Rizley, spoke to Cox on November 9, 2009, refused a signed letter from Mr. Rizley and requested a personal phone call from Mr. Rizley. Complainant asserts Complainant left messages on Cox voicemail on October 22, 2009 and October 30, 2009 requesting status of October 6, 2009 promise to look into the matter of a signed letter from Mr. Rizley and both phone calls were ignored. Complainant asserts Complainant was again required to seek the intervention of Ms. Ornoski on November 6, 2009 in order to be contacted by Cox on November 9, 2009. Complainant asserts Complainant advised Cox; because of failure to follow through on promises of October 6, 2009, refusing to return telephone calls and because third party intervention was required to reach Cox on November 9, 2009; that Complainant now requests a ten minute personal telephone call from Mr. Rizley to resolve the complaint of September 9, 2009. Complainant asserts Cox said Mr. Rizley would be advised of Complainant request. Complainant asserts this was the last formal contact with Cox until receipt of a non-responsive answer to an informal complaint sent to the Commission on February 12, 2010 and received by Complainant on February 26, 2010. Complainant asserts on

November 19, 2009 Complainant spoke informally with Mr. Christopher Smith, manager, Cox Government Relations at the 2009 Governor's Celebration of Innovation in Phoenix, Arizona. Complainant asserts Mr. Smith offered assistance with a response to Complainant service complaint of September 9, 2009. Complainant asserts Mr. Smith responded with a reflexive statement of: "Good luck with that!" when Complainant said resolution of the September 9, 2009 complaint would require a personal ten minute telephone call from Mr. Rizley. Complainant asserts Complainant faxed Mr. Smith the history of September 9, 2009 complaint on November 20, 2009 and received no assistance from Mr. Smith or any other representative of Cox. Complainant asserts Complainant filed an informal complaint with the City of Phoenix on December 2, 2009 and misunderstood the City of Phoenix did not have jurisdiction. Complainant asserts the result of the City of Phoenix informal complaint was an attempt by the City of Phoenix to intervene with Cox on Complainant behalf and the subsequent transmittal of the informal complaint documentation to Cox. Complainant asserts Cox took no action as result of the City of Phoenix intervention. Complainant asserts refusing to return telephone calls, the need for additional third party intervention to make a second contact with Cox, the failure of Mr. Rizley to comply with a request for a personal telephone call and the failure to follow up the Cox contact of November 9, 2009 is evidence of a failure to supply a satisfactory level of service. Complainant asserts Mr. Smith verbal response of November 19, 2009 and failure to follow through on his offer of

assistance after complaint documentation was provided on November 20, 2009 is evidence of a leadership not committed to supply a satisfactory level of service. Complainant asserts Cox ignoring City of Phoenix intervention on behalf of Complainant is evidence of a failure to supply a satisfactory level of service.

9. Complainant admits paragraph 9 of Cox ANSWER except, Complainant denies Cox made reasonable efforts to resolve Complainant concerns as supported in this RESPONSE.

10. Complainant admits paragraph 10 of Cox ANSWER.

11. Complainant admits paragraph 11 of Cox ANSWER. Complainant asserts that Complainant request to pay for a one hour lunch meeting with Mr. Rizley is reasonable after eight months of broken promises and being ignored by Cox.

12. Complainant denies paragraph 12 of Cox ANSWER. Complainant asserts there is no one home at Complainant home address during the day to accept delivery of certified mail and Complainant did not refuse delivery of Cox certified letter.

13. Complainant admits paragraph 13 of Cox ANSWER.

14. Complainant asserts all other allegations and assertions not specifically admitted in this RESPONSE TO HISTORY are hereby denied. Complainant reserves the right to assert any and all additional arguments as more information becomes known about the facts surrounding this case.

**MOTION TO DENY COX MOTION TO DISMISS**

15. Complainant has asserted sufficient allegations to support the claim that Cox violated A.C.C. R14-2-507(C) which states: "Continuity of Service. Each utility shall make

reasonable efforts to supply a satisfactory and continuous level of service." The language of A.C.C. R14-2-507(C) requires two conditions of fulfillment for continuity of service: 1) supply a satisfactory level of service, 2) supply a continuous level of service. Prompt and reliable resolution of service complaints are an integral part of supplying a satisfactory level of service. The inclusion of the condition to "supply a satisfactory level of service" therefore requires prompt and reliable resolution of service complaints as a necessary condition of compliance with the tariff. Complainant has asserted sufficient allegations to support the claim that Cox has not supplied a satisfactory level of service in resolving Complainant service complaint in RESPONSE TO HISTORY paragraphs 3 - 13. As such, this complaint should be decided in favor of the Complainant and Cox motion to dismiss should be denied.

16. The relief sought by complainant is reasonable. 1) Complainant assertions provide evidence that Cox leadership, particularly Mr. Rizley, is more interested in time than in resolving service complaints to supply a satisfactory level of service. This interest in time is so dear that Mr. Rizley is not to be bothered even for the time it takes to sign a letter written for him by someone else. This interest in time is so dear that Mr. Rizley would rather risk an informal Commission complaint than find ten minutes within the span of eight months to speak personally with a consumer of the services he provides as leader of Cox in Arizona. This interest in time is so dear that Mr. Rizley will incur the cost of outside Counsel to contest



a formal Commission complaint rather than have a consumer of the services he provides as leader of Cox in Arizona pay for the privilege of having lunch with him. As such, relief from Cox needs to take time from Mr. Rizley if the relief is to have a meaningful impact on Cox future commitment to the requirement to supply a satisfactory level of service under A.C.C. R14-2-507(C). Furthermore, such relief is the same relief Mr. Rizley requested of the Commission in Docket T-03471A-08-0043, filed October 20, 2008 when Mr. Rizley had a poor service experience with the Commission during a Commission open hearing on August 27, 2008 (Exhibit A). Complainant asks no more of Mr. Rizley, a meeting time, than Mr. Rizley requested of the Commission to resolve his service complaint with the Commission. If time as relief is reasonable for Mr. Rizley, it is also reasonable for Complainant.

2) Complainant, up to the Commission mediation date of May 5, 2010, was not required to sacrifice work or family time in follow up of the service complaint of September 9, 2009. When the informal complaint required mediation Complainant was required to sacrifice work and family time. In email to Commission representative Ms. Jenny Gomez on March 25, 2010 Complainant stated: "The original remedy I proposed to this complaint, in a conversation with Cox representative Brenda Kay on 10/6/09, was a letter personally signed by SVP/GM Mr. Steve Rizley. Nearly six month later the remedy I now propose is a ten minute telephone call with Mr. Rizley. Should extended time be required on my part to resolve this complant (sic), either through mediation or formal complaint, I will negotiate for more extensive rememdy

(sic)." This email is filed with the formal complaint.

Complainant negotiated for the more extensive remedy of a one hour lunch paid by Complainant at the mediation, which Cox refused. Complainant now prays additional relief in the form of service credit of Complainant total Cox service for each month since September 9, 2009 that this matter has remained unresolved, due to the sacrifice of work and family time required to act on formal Commission complaint procedures.

17. WHEREFORE, having fully responded to Cox ANSWER to the formal complaint, Complainant requests the Commission issue a decision in favor of Complainant and grant the relief requested in the formal complaint.

RESPECTFULLY submitted this 11th day of August, 2010.

COMPLAINANT

A handwritten signature in black ink, appearing to read "Tony Granillo", written over a horizontal line.

Tony Granillo  
Complainant  
9017 North 14th Street  
Phoenix, AZ 85020  
Phone: 602-626-7126

**ORIGINAL** and **13 COPIES** of the  
foregoing mailed this 11th  
day of August, 2010 to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

**Copies** of the foregoing mailed  
this 11th day of August 11, 2010 to:

Michael W. Patten  
ROSHKA DEWULF & PATTEN, PLC  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, AZ 85004

# **EXHIBIT**

**"A"**

ORIGINAL

RECEIVED

T- 03471A-08-0043

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**COX**

OCT 20 P 1:58

AZ CORP COMMISSION  
DOCKET CONTROL

October 16, 2008

J. Stephen Rizley

Senior Vice President & General Manager - Arizona

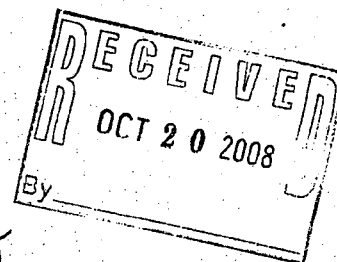
Hon. Mike Gleason, Chairman  
Hon. Jeff Hatch-Miller, Commissioner  
Hon. Bill Mundell, Commissioner  
Hon. Kristin K. Mayes, Commissioner  
Hon. Gary Pierce, Commissioner

Arizona Corporation Commission

DOCKETED

OCT 20 2008

DOCKETED BY



Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Honorable Members of the Arizona Corporation Commission:

Cox has worked tirelessly to create both an external reputation as a trusted provider in the communities we serve and an internal culture of service, integrity and excellence. I am proud of the thousands of hard-working, honorable men and women who consistently do the right thing for the right reasons as Cox employees. As Cox Arizona's leader, I am most proud of our relationships with our customers, with whom we must daily earn and re-earn the right to serve. However, I am troubled by recent developments in aspects of our important relationships at the ACC, and I want to act swiftly and specifically to address these concerns. I hope you will agree that we should personally meet at a proper time to explore ways to advance a more healthy footing and common understanding in our relationship.

It is with respect that I express my strong concerns regarding the experience Cox had at the Commission's August 27th Open Meeting, however, the reasons for my letter are not the agenda issue itself. Rather, my objectives are to (1) improve the relationship between Cox and the ACC, (2) underscore Cox's commitment to compliance with ACC rules and regulations, (3) raise a concern regarding the fair and reasonable conduct of Commission proceedings and (4) achieve a common understanding of the dynamic marketplace in which Cox operates.

First, let me share my view of the historic relationship between Cox and the Commission. Since entering into the residential telephone business in 1998, Cox has been proud of its achievements, injecting needed competition and winning multiple awards for its products and its customer satisfaction. Throughout that time, we at Cox believed that our relationship with the ACC was professional, cooperative, open and, mutually respectful. Cox fosters this type of relationship with its regulators, and we believe it has served both the company and the Commission well in the past. However, we were dismayed to recently learn that our perception may not be shared by all Commissioners and certain staff. I believe that it is important for me to meet with each of you to better understand where this breakdown in the relationship may have occurred so that we can restore the positive and mutually respectful relationship we have historically enjoyed.

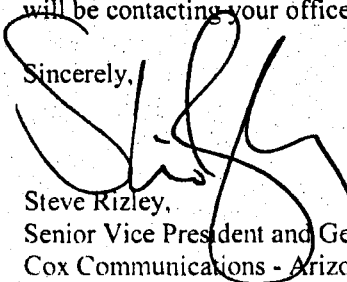
Second, Cox takes very seriously our compliance obligations with ACC rules and orders. Let me underscore that Cox is 100% committed to compliance. In fact, in the ten years Cox has been offering telephone service in Arizona, Cox has not once been served any official notice that it has been out of compliance with the Commission's rules and orders. Our customer informal complaint rate at the ACC is certainly the lowest of any telephone provider serving a broad consumer base in Arizona. We are proud of our efforts to hire skilled people of character and create a "do the right thing" culture. Emblematic of our commitment is that I was personally involved in hiring a respected, veteran ACC Utilities Division Assistant Director to ensure that we meet or exceed Commission requirements. Few, if any, could understand better or respect more the ACC's rules and orders and the consequences of non-compliance.

I am certain you will agree that Cox and other regulated entities should be able to count on a reasonable, predictable, objective and fair process during Commission proceedings. Aside from the specific issue or decision itself, our recent experience at the August 27, 2008 Open Meeting did not meet those expectations. The process by which the hearing was conducted, amendments considered and the decision reached was arbitrarily truncated, chaotic and procedurally uncertain. For example, is it permissible or proper for Commissioners to vote "present"? Or for a Commissioner to move an amendment without later voting on it during a roll call vote? Further, it raises serious fairness concerns when a regulated entity is not given any opportunity to rebut or respond to factually incorrect surprise comments from staff—comments that called in question the integrity of Cox staff and legal counsel. These kinds of experiences work to undermine faith and confidence in the fairness of the ACC's processes and procedures. Cox respectfully welcomes an opportunity to address these concerns and, if possible, to help improve the processes.

Finally, I am convinced there is a need to improve the Commission's understanding of what is a very dynamic and rapidly evolving telecommunications industry. It is changing quickly from both a technological and a competitive standpoint, and the two are inextricably intertwined. By way of example, I would like the opportunity to dispel the notion that Cox is one-half of a "duopoly" for residential communications. This view does not adequately recognize, for example, (a) the highly competitive nature of our industry, (b) differences between the residential and commercial/governmental telephony markets, (c) the rapidly changing technological landscape, which fuels competition and consumer choice, (d) differences in the regulatory status of various technologies, products and competitors and (e) changing consumer demands and trends which are rapidly changing the future of traditional wireline telephone service as we know it.

I welcome an opportunity for healthy dialogue with Commissioners and staff on these topics. I write in the spirit of opening an improved level of communication with you and your staffs. I will be contacting your offices to seek such an opportunity.

Sincerely,



Steve Rizley,  
Senior Vice President and General Manager  
Cox Communications - Arizona

cc: Brian McNeil, Executive Director